

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

BECKLEY DIVISION

LEWIS C. TERRY, JR.,

Petitioner,

v.

CIVIL ACTION NO. 5:06-cv-00049

MARTY C. ANDERSON,

Respondent.

MEMORANDUM OPINION AND ORDER

Pending before the Court is Petitioner's Petition Pursuant to 18 U.S.C. § 1331 [Docket 1]. By Standing Order entered on July 21, 2004, and filed in this case on January 20, 2006, this action was referred to United States Magistrate Judge R. Clarke VanDervort for submission of proposed findings and a recommendation (PF&R). On April 17, 2006, the case was transferred to the undersigned District Judge. Magistrate Judge VanDervort found that the petition should be construed as a complaint claiming relief pursuant to *Bivens v. Six Unknown Federal Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971), and filed his PF&R [Docket 6] on January 15, 2009, recommending that this Court **DISMISS** Petitioner's Petition [Docket 1] and remove the action from the Court's docket.

The Court is not required to review, under a de novo or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. *Thomas v. Arn*, 474 U.S. 140, 150 (1985). Failure to file timely objections constitutes a waiver of de novo review and the Petitioner's right to appeal this Court's

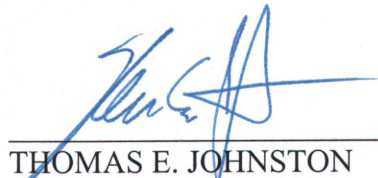
Order. 28 U.S.C. § 636(b)(1); *see also Snyder v. Ridenour*, 889 F.2d 1363, 1366 (4th Cir.1989); *United States v. Schronce*, 727 F.2d 91, 94 (4th Cir. 1984). In addition, this Court need not conduct a de novo review when a party “makes general and conclusory objections that do not direct the Court to a specific error in the magistrate’s proposed findings and recommendations.” *Orpiano v. Johnson*, 687 F.2d 44, 47 (4th Cir. 1982). Objections to the PF&R in this case were due on February 2, 2009. To date, no objections have been filed.

Accordingly the Court **ADOPTS** the PF&R [Docket 6], **DISMISSES** Petitioner’s Petition for Writ of Habeas Corpus [Docket 1], and **DIRECTS** the Clerk to remove the case from the docket. A separate Judgment Order will enter this day implementing the rulings contained herein.

IT IS SO ORDERED.

The Court **DIRECTS** the Clerk to send a copy of this Order to counsel of record and any unrepresented party.

ENTER: February 6, 2009



THOMAS E. JOHNSTON
UNITED STATES DISTRICT JUDGE